

EXHIBIT A



CLEVELAND DIVISION OF POLICE

GENERAL POLICE ORDER



EFFECTIVE DATE: August 12, 2019	CHAPTER: 1 - Administrative	PAGE: 1 of 10	NUMBER: 1.07.06
SUBJECT: DISCIPLINARY GUIDANCE			
CHIEF: <i>Calvin D. Williams, Chief</i>			

This General Police Order has been revised in its entirety

PURPOSE: To establish guidelines for the imposition of corrective action within the Cleveland Division of Police. Written guidelines provide all members of the Division the assurance that corrective action will be imposed in an equitable manner while providing management with the discretion necessary to maintain fairness and the good order of the Division.

POLICY: To ensure compliance to all laws of the United States, the State of Ohio, the Charter provisions and ordinances of the City of Cleveland, and the written directives of the Division of Police and the City of Cleveland. Additionally, members of the Division shall be responsible for adherence to all criminal laws in the jurisdictions in which they may be traveling.

The integrity of the Cleveland Division of Police is measured by the highest standards of personal conduct. The discipline system reflects the values of the Division while protecting the rights of both officers and citizens. The disciplinary guidance matrix is intended to create a culture of transparency, fairness, and consistency while maintaining the highest standards of professionalism and integrity in policing.

All disciplinary or non-disciplinary outcomes shall be decided without consideration of the member's race, religion, gender, sex, national origin, age, ethnicity, familial relationships or sexual orientation.

All disciplinary or non-disciplinary outcomes shall be decided without consideration of the high or low profile nature of the incident.

Supervisors shall follow the contractual procedures of the respective bargaining units. The discipline matrix applies to both sworn and non-sworn members of the Division unless there are contractual exceptions.

This Disciplinary Guidance is designed to accomplish the following goals:

1. Establish standards of corrective action to encourage compliance with all applicable laws, ordinances, rules, and directives.
2. Delineate categories of conduct for Group I, II or III policy violations.
3. Outline the presumptive discipline ranges within those categories and for specific policy violations based upon the severity of the violation.
4. Give notice to officers and the community of the likely sanction for a particular violation.

PAGE: 2 of 10	SUBJECT: DISCIPLINARY GUIDANCE	NUMBER: 1.07.06
------------------	---------------------------------------	--------------------

5. Define and identify aggravating and mitigating factors to consider when determining the imposition of corrective action.
6. Provide the framework for consistent and fair corrective action.

DEFINITIONS:

Aggravating Factors are relevant facts and circumstances that increase the severity or culpability of a member's actions. Circumstances that constitute aggravating factors include but are not limited to: deceitfulness, dishonesty, maliciousness, injury or harm to the public or a member, prior history of corrective action, the supervisory or command rank of the officer who committed the violation, the existence of an actual or demonstrable legal or financial risk to the Division or the City (including, but not limited to, cases involving allegations of civil rights violations, unlawful search and seizure, excessive use of force or unlawful detention or arrest), loss or damage to the city or private property and prejudicial or biased conduct.

Corrective Action is any non-disciplinary or disciplinary action.

Dishonesty is to act without honesty: to deliberately deceive, defraud or lie.

False Statement is a statement that is deliberately made and meant to deceive or a statement that is intentionally untrue.

Group I Violation is conduct that has a negative impact on the operations or professional image of the Division or that negatively impacts relationships with other officers, agencies or the public.

Group II Violation is conduct that is contrary to the values of the Division, or that interferes with its mission, operations or professional image, or that involves a demonstrable serious risk to officer or public safety.

Group III Violation is conduct that involves a serious abuse or misuse of authority, unethical behavior, or an act that results in an actual or serious and adverse impact on officer or public safety or to the professionalism of the Division. Any violation of law, rule, policy or training which foreseeably results in death or serious physical harm to another person; or constitutes a willful and wanton disregard of Division values; or involves any act which demonstrates a lack of the integrity, ethics or character related to an officer's fitness to hold the position of police officer; or involves egregious misconduct substantially contrary to the standards of conduct reasonably expected of one whose sworn duty is to uphold the law; or involves any conduct which constitutes the failure to adhere to any contractual condition of employment or requirement of certification mandated by law.

Mitigating Factors are relevant facts and circumstances that decrease the severity or culpability of a member's actions. Circumstances that constitute mitigating factors include but are not limited to: intent, truthfulness, lack of prior corrective action, willingness to accept responsibility and acknowledge wrongdoing, circumstances under which the rule was violated and prior work history.

PAGE: 3 of 10	SUBJECT: DISCIPLINARY GUIDANCE	NUMBER: 1.07.06
------------------	---------------------------------------	--------------------

Untruthfulness is the act of being intentionally deceitful, the willful perversion of the truth in order to deceive, cheat, or defraud.

Non-Disciplinary Action may take one of the following forms:

Verbal Counseling: A discussion between the supervisor and the member where the member is advised and cautioned about unsatisfactory work performance or irregularities. Documentation of the Verbal Counseling shall be noted by completing a pre-structured Form-1 (Attachment A) titled Verbal Counseling (followed by the member's name/badge number) and forwarded through their chain of command in Blue Team (with all associated reports) to the Chief's Office.

Letter of Reinstruction: Is any instruction or guidance issued by the Chief of Police to the member, where the member is advised of their action that needs correction and directing the member to review specific policies, procedures, or rules.

Remedial Training: Any instruction or guidance ordered to be completed by a member designed to correct a performance deficiency or misconduct. Remedial training may consist of classroom reinstruction or other job-related training. All remedial training records shall be retained in the Training Section and the Personnel Unit, with copies forwarded to the Case Preparation Officer.

Disciplinary Action may take one of the following forms:

Written Reprimand: A written documentation presented to the member from the Chief of Police or Director of Public Safety wherein the member is advised and cautioned about his/her unsatisfactory work performance or misconduct.

Suspension: A temporary prohibition of the member performing his/her duties as a result of the member's unsatisfactory work performance or misconduct issued by the Chief of Police or Director of Public Safety. The suspension period shall be without pay and served on consecutive working days, unless otherwise ordered by the Chief.

Demotion: A reduction of the pay grade of a member with a corresponding change in job duties and responsibilities as a result of the member's unsatisfactory work performance or misconduct issued by the Director of Public Safety.

Termination: An involuntary separation from employment initiated by the appointing authority as a result of the member's unsatisfactory work performance or misconduct.

I. Table of Discipline

- A. The Table of Discipline (Attachment B) shall establish a presumptive range of corrective action for designated types of policy/procedural/protocol/rule violations, so that discipline for sustained violations may be imposed in a fair and consistent manner. Mitigating or aggravating factors shall be considered and may result in the adjustment of the discipline administered within the disciplinary range of the Group Violation identified.

PAGE: 4 of 10	SUBJECT: DISCIPLINARY GUIDANCE	NUMBER: 1.07.06
------------------	---------------------------------------	--------------------

1. Pursuant to the Cleveland Police Patrolmen's Association, Article XXIX and the Fraternal Order of Police Lodge 8, Article IV, Collective Bargaining Agreements, the Chief of Police may suspend an officer for ten (10) days or less.

If the Chief recommends a greater penalty, the Director of Public Safety will hear the disciplinary charge filed against the officer and render judgment on such charge and set the disciplinary penalty if any.

2. Pursuant to Cleveland Police Patrolmen's Association, Exhibit G, *"an employee who tests positive for the first time for alcohol and who cooperated and fulfilled the obligations of Voluntary Participation in a Dependence Program, may be disciplined. The scope of such discipline shall be determined on a case by case basis, but shall not exceed three (3) working days..." "Employees must take part in the Voluntary Dependence Program in order to take advantage of the foregoing limitations on discipline."*

3. Pursuant to the Fraternal Order of Police, Lodge 8, Addendum A, *"an employee who tests positive for alcohol shall be subject to discipline up to and including dismissal unless the employee agrees to participate in and satisfies the obligations of a treatment program..." "An employee who agrees to participate and satisfies the obligations of this treatment program will be subject to discipline up to a three (3) day suspension (but is also subject to additional discipline for other rules violations)."*

- B. The Table of Discipline will be reviewed annually and revised as necessary.
- C. Violations are divided into three groups based on their seriousness. The severity of the discipline administered shall fit the seriousness of the violation. If there are mitigating or aggravating factors of which they are aware, supervisors shall include them in their recommendation for corrective action.
- D. Three or more sustained violations occurring in the same group within a **three** year period automatically progresses the discipline into the next higher group.
- E. Multiple violations arising from a single event or incident may escalate the disciplinary action to the maximum group range.
- F. A member may be subject to transfer if he/she is found guilty of a Group II or Group III violation based on the underlying conduct of the discipline and the minimum requirements of the assignment. The Chief of Police may also suspend or terminate secondary employment privileges, ceremonial team/special detail assignment/task force/FTO program privileges and acting out of rank duties.
- G. AWOL (absence from duty without leave), social media policy violations, tactical and training violations, failure to notify a supervisor or violation of a court order can result in a Group I, II or III violation, as defined in this General Police Order.
- H. Pursuant to 18 U.S.C. § 922(g), if an officer is convicted of a misdemeanor offense that involves the use of physical force, attempted use of physical force, or threatened use of a

PAGE: 5 of 10	SUBJECT: DISCIPLINARY GUIDANCE	NUMBER: 1.07.06
------------------	---------------------------------------	--------------------

deadly weapon against a person with whom the officer is or has been involved in a specified domestic relationship as defined by applicable law, the officer may no longer possess a firearm, including a service weapon. Therefore, it is a weapons disability, and the City will also take appropriate disciplinary action as contemplated for Group III violations.

1. A domestic relationship, as defined by 18 U.S.C. § 921(a) (33) (A), is one where the offender is the current or former spouse, parent, or guardian of the victim; the offender shares a child in common with the victim; the offender who is cohabiting with or has cohabitated with the victim as a spouse, parent, or guardian; or the offender is similarly situated to a spouse, parent, or guardian of the victim.

- I. The following are examples of violations within each disciplinary category. The violations listed are not intended to be all-inclusive.

1. **Group I Violations**

- Absence from duty without leave (AWOL)
- Court, Failure to Appear
- Discourtesy, Rudeness
- Equipment, Unauthorized, Failure to properly control or maintain
- Erroneous reporting
- Failure to attend required Division training when scheduled
- Failure to notify supervisor of a Group I Violation
- Grooming and Uniform violations
- Improper tow
- Leaving district, zone or city without supervisory approval
- Minor misdemeanor offenses (as defined by O.R.C. 2901.02) excluding minor traffic violations
- Operating motor vehicle with expired driver license
- Police vehicle, Failure to properly maintain, Preventable motor vehicle accidents
- Police vehicle operations, flagrant violations (e.g., excessive speed)
- Prisoners, Failure to properly search resulting in discovery of weapon or contraband after member searched the prisoner, Improper booking, DNA collection
- Reports, Failure to submit or timeliness
- Response status, Improper or unauthorized emergency response
- Secondary employment, Unauthorized
- Social media policy violations
- Tactics, Violation of training
- Tardiness
- Unsatisfactory performance

PAGE: 6 of 10	SUBJECT: DISCIPLINARY GUIDANCE	NUMBER: 1.07.06
------------------	---------------------------------------	--------------------

- Vehicular pursuit/emergency driving, Unauthorized/improper
- Violation of a court order
- WCS, Improper usage (see GPO 4.06.04 Wearable Camera System)
- Other similar misconduct

2. **Group II Violations**

- Absence from duty without leave (AWOL)
- Abusive/demeaning language
- Calls for Service, Failure to respond, investigate, arrest, and/or properly clear
- Conduct Unbecoming
- Computers, Unauthorized or improper use/access, LEADS violations
- Diminish the esteem of the Division (disparaging or offensive statements or conduct regarding the Division)
- Failure to notify supervisor of a Group II Violation
- Failure to supervise subordinates
- Firearms violations (did not result in injury or death), unattended careless handling
- Harassment
- Mishandling or improper preparation of criminal case resulting in declination to prosecute or dismissal
- Off-duty O.V.I. or related offenses
- Prisoners, Failure to properly search or secure resulting in escape or discovery of weapon or contraband when the prisoner was not searched.
- Sleeping on duty
- Social media policy violations
- Tactics, Violation of training
- Violation of a court order
- Other similar misconduct

3. **Group III Violations**

- Absence from duty without leave (AWOL)
- Alcohol/Drug use on duty
- Any conviction resulting in a Weapons Disability
- Communication of confidential information that may jeopardize a police action
- Dereliction of duty
- Discrimination, Bias Policing
- Drug-related violations
- Engaging in sexual activities while on duty

PAGE: 7 of 10	SUBJECT: DISCIPLINARY GUIDANCE	NUMBER: 1.07.06
------------------	---------------------------------------	--------------------

- Excessive force, Physical force not within policy
- Exercise of authority while under suspension
- Failure to notify supervisor of a Group III Violation
- Failure of a random alcohol test [See I. A. (2 & 3)]
- Failure of random drug test
- False Report, False Statement, Untruthfulness, Dishonesty
- Intentionally omitting or concealing information related to misconduct
- Felonies and serious misdemeanor offenses
- Firearms violations resulting in death or serious injury
- Gross immorality violations
- Gross neglect of duty
- Insubordination
- Off-duty O.V.I. or related offenses (second offense)
- Operating motor vehicle while privilege revoked or suspended
- Retaliation, Coercion or Intimidation
- Secondary employment (revoked)
- Sexual Harassment (as defined by General Police Order 1.1.07: Sexual Harassment Policy)
- Social media policy violations
- Tactics, Violation of training
- Violation of a court order
- Vehicular pursuit/emergency driving, Unauthorized/improper (resulting in death or serious bodily injury)
- Workplace violence (as defined by GPO 1.02.09 Violence in the Workplace)
- Other similar misconduct

J. Ranges of Non-Disciplinary and Disciplinary Actions

1. **Group I Violations** - Corrective action shall range from non-disciplinary Verbal Counseling to a 5-day suspension without pay.
 - a. First Group I violation and mitigating factors outweigh any aggravating factors or no aggravating factors present (non-disciplinary Verbal Counseling to Written Reprimand)
 - b. First Group I violation and aggravating factors outweigh any mitigating factors or no mitigating factors present (1 to 2-day suspension without pay)
 - c. Second Group I violation and mitigating factors outweigh any aggravating factors or no aggravating factors present (2 to 3-day suspension without pay)

PAGE: 8 of 10	SUBJECT: DISCIPLINARY GUIDANCE	NUMBER: 1.07.06
------------------	---------------------------------------	--------------------

- d. Second Group I violation and aggravating factors outweigh any mitigating factors or no mitigating factors present (3 to 5-day suspension without pay)
- 2. **Group II Violations** - Corrective action shall range from a 6-day to a 10-day suspension without pay.
 - a. First Group II violation and mitigating factors outweigh any aggravating factors or no aggravating factors present (6 to 7-day suspension without pay)
 - b. First Group II violation and aggravating factors outweigh any mitigating factors or no mitigating factors present (7 to 8-day suspension without pay)
 - c. Second Group II violation and mitigating factors outweigh any aggravating factors or no aggravating factors present (8 to 9-day suspension without pay)
 - d. Second Group II violation and aggravating factors outweigh any mitigating factors or no mitigating factors present (9 to 10-day suspension without pay)
- 3. **Group III Violations** - Corrective action shall range from a 10-day suspension to demotion or termination.
 - a. First Group III violation and mitigating factors outweigh any aggravating factors or no aggravating factors present (10 to 30-day suspension without pay)
 - b. First Group III violation and aggravating factors outweigh any mitigating factors or no mitigating factors present (13 to 30-day suspension without pay and/or demotion or termination)
 - c. First Group III violation, serious misdemeanor offenses, gross immorality violations, gross neglect of duty, mitigating factors outweigh any aggravating factors or no aggravating factors present (20 to 30-day suspension without pay and/or demotion or termination)
 - d. First Group III violation, serious misdemeanor offenses, gross immorality violations, gross neglect of duty, aggravating factors outweigh any mitigating factors or no mitigating factors present (25 to 30-day suspension without pay and/or demotion or termination)
 - e. First Group III violation, felony offenses (termination)
 - f. Second Group III violation and mitigating factors outweigh any aggravating factors or no aggravating factors present (15 to 30-day suspension without pay)

PAGE: 9 of 10	SUBJECT: DISCIPLINARY GUIDANCE	NUMBER: 1.07.06
------------------	---------------------------------------	--------------------

- g. Second Group III violation and aggravating factors outweigh any mitigating factors or no mitigating factors present (18 to 30-day suspension without pay and/or demotion or termination)
- h. Second Group III violation, serious misdemeanor offenses, gross immorality violations, gross neglect of duty, (presumption of termination)
- i. Any conviction resulting in a Weapons Disability (termination)
- j. *False Report, false statement, untruthfulness, or dishonesty (each of which creates a presumption of termination)*

K. Divisional records will be maintained in compliance with Ohio Public Records laws.

II. Procedures

- A. After a misconduct investigation is completed by the assigned Unit/Bureau, the Internal Affairs Superintendent or designee will review the investigation and forward it to the Chief of Police to determine if corrective action is warranted. Where discipline is deemed warranted, a charging letter shall be prepared, summarizing the underlying facts and alleged policy violations. The Case Preparation Office will then schedule a pre-disciplinary hearing for the member.
- B. The Director of Public Safety, Chief of Police or designated representative will conduct the pre-disciplinary hearing for the charged member and allow the opportunity for the charged member and any pertinent witnesses to explain the circumstances of the incident.

The hearing officer will review the facts and evidence presented during the pre-disciplinary hearing and determine a finding of guilty or not guilty based on the preponderance of the evidence standard.

The Case Preparation Officer will assist the Hearing Officer to determine the discipline group category contained in the specification(s).

In cases where the Chief of Police or Director of Public Safety is not the hearing officer, then the hearing officer will make a recommendation to the Chief of Police or Director of Public Safety for a final determination and imposition of corrective action, if any, in accordance with this General Police Order. The Case Preparation Office will notify the member of the final disposition of the pre-disciplinary hearing.

- C. The Division will not accept non-disciplinary corrective action as a substitute for discipline where the disciplinary matrix calls for the imposition of discipline. However, the Division will consider whether non-disciplinary corrective action (i.e., training, remedial training, classroom instruction or transfer) is appropriate in addition to discipline being imposed.

III. Documentation of Divisional Disciplinary Action

PAGE: 10 of 10	SUBJECT: DISCIPLINARY GUIDANCE	NUMBER: 1.07.06
-------------------	---------------------------------------	--------------------

- A. To document the Division's consistency in discipline and to demonstrate transparency in such matters, the Case Preparation Officer in the Chief's Office shall maintain files of all disciplinary actions imposed by the Division. Documentation shall consist of the following information:
1. Date of incident;
 2. Date of discipline or non-disciplinary action;
 3. Violations sustained;
 4. Action taken.
- B. The Case Preparation Officer shall cause a Divisional Notice to be issued on an as-needed basis listing disciplinary decisions imposed by the Division.

IV. Separation from Service with Pending Discipline

- A. Cleveland Civil Service Rule 8.43 states *"Wherever an employee or officer in the classified service has resigned while charges of misconduct were pending, such resignation may not be withdrawn."*

CLEVELAND DIVISION OF POLICE

CLEVELAND, OHIO
DIVISIONAL INFORMATION

DIST./BUR. _____ ZONE/UNIT _____ 20 _____
EXAMINED BY _____ RANK _____ 20 _____
FROM _____ TO _____
SUBJECT Verbal Counseling
COPIES TO Chief's Office, District/Unit Files

Sir/Ma'am:

I have provided the following Verbal Counseling to: _____

Date of Incident: _____ **Date of Counseling:** _____

Location: _____
Name / Badge #

Description of Verbal Counseling:

Supervisor: _____
Signature Badge # Date

Member Comments:

Member: _____
Signature Badge # Date

Original: District/Unit

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